

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CINSIA AND ALFONSO CIOLINO,
Plaintiffs,

v.

**AARON EASTMAN,
DAVID EARLE, and
GEORGE GIKAS,**
Defendants.

C.A. No. 1:13-CV-13300-ADB

DEFENDANTS' MOTION FOR JUDGMENT AS A MATTER OF LAW
AT THE CLOSE OF THE PLAINTIFF'S CASE
AND ALL THE EVIDENCE *NUNC PRO TUNC*

Defendants move this Honorable Court to allow their Motion for Judgment as a Matter of Law *nunc pro tunc*.

On the last day of trial testimony, January 21, 2016, pursuant to the electronic clerk's notes for the proceedings held that day (Exhibit A -- Docket Entry No. 123), after the Plaintiff was rested, the Defendants orally filed their Motion for Judgment as a matter of law on the issue of qualified immunity. The clerk's notes reflect that the "Defendant files motion", but the motion was not electronically filed. The transcript of that day's proceedings also reflect that the "Defendants move for judgment as a matter of law at the close of the plaintiff's case." (Exhibit B—Trial Transcript, Day 3, pp. 148-149.)

In order to insure for appellate purposes that the docket is clear, Defendants now file this Motion for Directed Verdict *nunc pro tunc* so that for the purposes of appeal, there will be a proper record.

The Plaintiffs assent to the Defendants' Motion.

WHEREFORE, Defendants move this Honorable Court to accept the filing of this Motion for Judgment as a Matter of Law *nunc pro tunc* to January 21, 2016.

Assented to:

PLAINTIFFS,

CINSIA AND ALFONSO CIOLINO,

By their Attorney,

/s/Robert S. Sinsheimer

Robert S. Sinsheimer, Esq.
Sinsheimer & Associates
92 State Street, 9th Floor
Boston, MA 02109

Respectfully submitted,

DEFENDANTS,
EASTMAN,
EARLE AND GIKAS,

By their Attorney,

/s/Stephen C. Pfaff

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Louison, Costello, Condon & Pfaff
101 Summer Street, 4th Floor
Boston, MA 02110
(617) 439-0305

Date: February 13, 2017

CERTIFICATE OF SERVICE

I, Stephen C. Pfaff, hereby certify that I served electronically and mailing postage prepaid, the foregoing by causing a copy to be directed to:

Robert S. Sinsheimer, Esq.
Sinsheimer & Associates
92 State Street, 9th Floor
Boston, MA 02109

/s/Stephen C. Pfaff

Date: February 13, 2017

Stephen C. Pfaff